

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Bureau of Land and Water Quality  
17 State House Station  
Augusta, ME 04333

ATS# 74267

FOR DEP USE

AIS # L- 22585-36-B-N

Fees Paid: \$ 3147.00 CK# 6954

Date Fees Rec'd: 1/3/12

## PETITION TO SET WATER LEVELS/MINIMUM FLOWS

PLEASE TYPE OR PRINT

### GENERAL INFORMATION

The undersigned PETITIONERS hereby petition the Department of Environmental Protection to hold a public hearing and establish a water level regime and/or minimum flows for the water body described below.

NAME OF WATER BODY: Clary Lake

LOCATION OF WATER BODY- TOWN(S): Whitefield and Jefferson

- COUNTY(IES) Lincoln County

The undersigned PETITIONERS hereby represent that, to the best of their knowledge, the water body named above is impounded by or receives flows from the man-made dam described below.

LOCATION OF DAM: Outlet of Clary Lake on east side Route 218 in  
the Town of Whitefield.

NAME OF DAM OWNER: Pleasant Pond Mill LLC & Aquafortis Associates LLC

ADDRESS OF DAM OWNER: 161 Molyueaux Road, Camden ME 04843 (for both)

The undersigned PETITIONERS hereby agree to have all official correspondence and notices regarding this petition served in their behalf on the spokesperson identified below.

NAME OF SPOKESPERSON: George S. Fergusson <gsfergusson@gmail.com>


MAILING ADDRESS: 326 Jefferson Road, Whitefield ME 04353

TELEPHONE NUMBER(S): HOME: 207-549-5991 BUSINESS: N/A

The undersigned PETITIONERS hereby represent and aver that they are littoral or riparian proprietors on the water body impounded by or receiving flows from the dam described above.

### CERTIFICATION OF FILING

By signing below, the spokesperson agrees to: (1) serve as an intermediary between other petitioners and the DEP; (2) share information, correspondence, notices, draft orders and other official documents with other petitioners; and (3) send comments on behalf of other petitioners to the DEP.

  
SIGNATURE OF SPOKESPERSON

3 Jan 2012  
DATE


*pleasantpondmill@  
hotmail.com  
236-2886*

**CERTIFICATION OF PETITIONERS**

The undersigned town/city clerk(s) hereby certify the number of valid petitioners from each affected municipality who have signed the attached petition to set water levels/minimum flows.

To be a valid petitioner, a person (including individuals, partnerships, corporations, governmental entities, associations, and public or private organizations of any character) must own or lease property on the shore of the pond or lake impounded by a dam or on the banks of the river or stream receiving flows from a dam.

If the number of valid petitioners from a given municipality is less than 50, the appropriate town/city clerk(s) also hereby certify the total number of land owners in that municipality on the shore of the pond or lake impounded by a dam or on the banks of the river or stream receiving flows from to dam.

<u>Jefferson</u> Name of Town/City	<u>32</u> Number of Valid Petitioners	<u>51</u> Total Number of Riparian/ Littoral Landowners	<u></u> Signature of Town/City Clerk
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<u>                    </u> Name of Town/City	<u>                    </u> Number of Valid Petitioners	<u>                    </u> Total Number of Riparian/ Littoral Landowners	<u>                    </u> Signature of Town/City Clerk
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<u>                    </u> Name of Town/City	<u>                    </u> Number of Valid Petitioners	<u>                    </u> Total Number of Riparian/ Littoral Landowners	<u>                    </u> Signature of Town/City Clerk
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# PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE	PRINTED NAME OF SIGNER	TOWN WHERE PROPERTY IS LOCATED	MAILING ADDRESS
✓ 1. <i>Dennis Macgovern</i>	Dennis Macgovern	Jefferson	77 Hills Rd Augusta
✓ 2. <i>Ann Holland</i>	Ann Holland	Jefferson	PO Box 52, Jefferson, ME 04348
✓ 3. <i>Jack Holland</i>	Jack Holland	Jefferson	PO Box 52 04348
✓ 4. <i>David M. Hodson</i>	DAVID M. HODSON	JEFFERSON	73 Hodsdon Lane Jefferson, ME 04348
✓ 5. <i>Jacqueline Franklin</i>	JACQUELINE FRANKLIN	GO HODSDON LN	JEFFERSON ME 04348
✓ 6. <i>Peter Fasano</i>	Peter Fasano	Jefferson	727 Fardner Jefferson ME 04348
✓ 7. <i>Janette L. Hodson</i>	Janette L. Hodson	Jefferson	73 Hodsdon Ln Jefferson, ME 04348
✓ 8. <i>Frances Hodson</i>	FRANCES HODSON	Jefferson	16 Hodsdon Lane Jefferson, ME 04348
✓ 9. <i>Andrew E. Goss</i>	Andrew E. Goss	Jefferson	739 GARDNER ROAD JEFFERSON ME 04348
✓ 10. <i>Linda L. Goss</i>	Linda L. Goss	Jefferson	739 Gardner Rd Jefferson ME 04348
✓ 11. <i>Raymond Goss</i>	RAYMOND GOSS	Jefferson	64 N. Dany Rd Jefferson ME 04348
✓ 12. <i>Arlene Wingo</i>	Arlene Wingo	Jefferson	64 N. Dany Rd Jefferson ME 04348
✓ 13. <i>Tim Robbins</i>	Tim Robbins	Jefferson	64 N. Dany Rd Jefferson ME 04348
✓ 14. <i>Brenda Robbins</i>	Brenda Robbins	Jefferson	64 N. Dany Rd Jefferson ME 04348
✓ 15. <i>Dennis Macgovern</i>	Dennis Macgovern	Jefferson	13 S. Clary Rd Jefferson ME 04348

THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFRONT  
 PROP OWNERS: 14

NON-WATERFRONT  
 PROP. OWNERS: 1

# PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake \_\_\_\_\_ IN \_\_\_\_\_ Jefferson/Whitefield \_\_\_\_\_  
 Name of Waterbody \_\_\_\_\_ Name of Town(s) \_\_\_\_\_

SIGNATURE	PRINTED NAME OF SIGNER	TOWN WHERE PROPERTY IS LOCATED	MAILING ADDRESS
<input checked="" type="checkbox"/>	Gertrude A. French	Jefferson	84 Duncan Rd.
<input checked="" type="checkbox"/>	John Tribby	Jefferson	101 Old Madeline Rd.
<input checked="" type="checkbox"/>	Robert F. Antognoni	Jefferson	26 Robert F. Dow Rd.
<input checked="" type="checkbox"/>	Aaron D. Antognoni	Jefferson	26 Robert F. Dow Rd.
<input checked="" type="checkbox"/>	Debra M. French	Jefferson	74 Duncan Road.
<input checked="" type="checkbox"/>	Douglas Kinney	Jefferson	102 Duncan Rd
<input checked="" type="checkbox"/>	Kelsie French	Jefferson	155 So. Belfast Ave, Augusta
<input checked="" type="checkbox"/>	Roger R. Gilbert	Jefferson	32 Waters Highway
<input checked="" type="checkbox"/>	Jon Moody	Jefferson	59 Waters Highway
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<input type="checkbox"/>			

THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFRONT  
 PRO. DUNES: 9

NON-WATERFRONT  
 PRO. DUNES: 0

PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

Robert J. Tierrier ROBERT J TIERRIER JEFFERSON 13 S. CLARY RD JEFFERSON ME 04348

Lucille F. Norman LUCILLE F NORMAN JEFFERSON 13 S. CLARY RD. JEFFERSON ME 04348

Cherlye Fasano Cherlye Fasano Jefferson 727 Gardiner Rd. Jefferson ME.

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THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFORD  
 PROP. OWNERS: 3

NON-WATERFORD  
 PROP. OWNERS: 0

PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
Name of Waterbody Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

*George L. Page*

George L. Page

Jefferson

4042 Katherine Blvd., Lake Oswego, OR 97035

1. \_\_\_\_\_
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THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERBODIES OWNERS: 1

WATERBODIES OWNERS: 0

PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

Cell 2816158488

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

2/13/2011  
 Christopher Gillette  
 Christopher Gillette  
 Jefferson Maine  
 515 Servett Rd  
 04348

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THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFRONT  
 PRO. OWNERS: 1

ADD - WATERFRONT  
 PRO OWNERS: 0

PETITION FOR ESTABLISHMENT OF WATER LEVELS

\_\_\_\_\_  
Name of Waterbody

Clary Lake IN Jefferson/Whitefield  
Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

1. Freida Rapp Jefferson 2816 Williams Ln, Va Beach  
2. Kenneth S. Rapp Jefferson 2816 Williams Ln, Va Beach  
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THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFRONT  
PROP. OWNERS: 2

NON-WATERFRONT  
PROP. OWNERS: 0



PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

✓ Kate Proctor Grant Selva Jefferson 53 MacDonald Road  
 Jefferson, Maine 04348

- 2. \_\_\_\_\_
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THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFRONT  
 PROP. OWNERS: 1

NON-WATERFRONT  
 PROP. OWNERS: 0

PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
Name of Waterbody Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

1. Roberta G. Giampetrozzi Roberta D. Giampetrozzi Jefferson 70 Lester Drive  
Portland, ME 04103-1614

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THIS FORM MAY BE REPRODUCED AS NECESSARY

WATERFRONT

PROP. OWNERS: 1

NON-WATERFRONT

PROP. OWNERS: 0

### CERTIFICATION OF PETITIONERS

The undersigned town/city clerk(s) hereby certify the number of valid petitioners from each affected municipality who have signed the attached petition to set water levels/minimum flows.

To be a valid petitioner, a person (including individuals, partnerships, corporations, governmental entities, associations, and public or private organizations of any character) must own or lease property on the shore of the pond or lake impounded by a dam or on the banks of the river or stream receiving flows from a dam.

If the number of valid petitioners from a given municipality is less than 50, the appropriate town/city clerk(s) also hereby certify the total number of land owners in that municipality on the shore of the pond or lake impounded by a dam or on the banks of the river or stream receiving flows from to dam.

<u>WHITEFIELD</u> Name of Town/City	<u>22</u> Number of Valid Petitioners	<u>57</u> Total Number of Riparian/ Littoral Landowners	<u>Robin G. Little Deputy</u> Signature of Town/City Clerk
<u>                    </u> Name of Town/City	<u>                    </u> Number of Valid Petitioners	<u>                    </u> Total Number of Riparian/ Littoral Landowners	<u>                    </u> Signature of Town/City Clerk
<u>                    </u> Name of Town/City	<u>                    </u> Number of Valid Petitioners	<u>                    </u> Total Number of Riparian/ Littoral Landowners	<u>                    </u> Signature of Town/City Clerk

# PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE	PRINTED NAME OF SIGNER	TOWN WHERE PROPERTY IS LOCATED	MAILING ADDRESS
<u>[Signature]</u>	George Ferguson	Whitefield	324 Jefferson Rd Whitefield ME 04353
<u>[Signature]</u>	EZELDA PRESCOTT	WHITEFIELD	400 Mills Road 04353
<u>[Signature]</u>	Ronald W. Rollins	Rollins Whitefield	386 Mills Rd. 04353
<u>[Signature]</u>	Sara Jean Ferguson	Whitefield	341 Jefferson Rd 04353
<u>[Signature]</u>	Jiffany Whitehead	Whitefield	88 Jefferson Rd 04353
<u>[Signature]</u>	Jane Chase	Whitefield	139 Mills Rd Whitefield Me 04353
<u>[Signature]</u>	Paula Shorey	Whitefield	220 Mills Rd. Whitefield Me 04353
<u>[Signature]</u>	Louis Shorey	Whitefield	238 Mills Rd. Whitefield Me 04353
<u>[Signature]</u>	William C. McKen	WHITEFIELD	PO BOX 148 WHITEFIELD, ME 04353
<u>[Signature]</u>	Susan B. McKen	Whitefield	322 Massey Rd. Whitefield, ME 04353
<u>[Signature]</u>	Sharon L. Clark	Whitefield	87 Mills Rd Whitefield, ME 04353
<u>[Signature]</u>	Daniel Burns	Whitefield	52 Jefferson Rd. Whitefield. 04353
<u>[Signature]</u>	Dorothy Burns	Whitefield	52 Jefferson Rd Whitefield 04353
<u>[Signature]</u>	MATT PAGE	WHITEFIELD	54 JEFFERSON RD WHITEFIELD 04353
<u>[Signature]</u>	Sheri Flogge	Whitefield	54 Jefferson Rd Whitefield 04353

(did not count)

# PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE PRINTED NAME OF SIGNER TOWN WHERE PROPERTY IS LOCATED MAILING ADDRESS

(did not count) 1. Elizabeth Dmitrieff Elizabeth Dmitrieff Whitefield 179 Niguel Rd. Whitefield, ME 04353

(did not count) 2. Dawn Mathews Dawn Mathews Whitefield 71 Senott Rd. Whitefield, ME 04353

~~3. Thomas L. Niguel Thomas L. Niguel Whitefield P.O. Box 128 Whitefield, ME 04353~~

✓ 4. Pauline B. LaBelle Pauline B. LaBelle Whitefield 179 M. 115 Rd. Whitefield, ME 04353

(did not count) 5. Bruce Mathews Bruce Mathews Whitefield 92 M. 115 Rd. Whitefield, ME 04353

✓ 6. Michael T. Lachar Michael T. Lachar Whitefield 880 DePue Rd. Whitefield, ME 04353

✓ 7. C. Patrick Clark C. Patrick Clark Whitefield P.O. Box 142 Whitefield, ME 04353

✓ 8. Robert Clark Robert Clark Whitefield P.O. Box 142 Whitefield, ME 04353

✓ 9. Howard P. Nickerson Howard P. Nickerson Whitefield P.O. Box 5 Whitefield, ME 04353

✓ 10. Colin Ferguson Colin Ferguson Whitefield 2 Loudon Lane Halliwell, ME 04353

~~11. Forrest Hardy Forrest Hardy~~

~~12. \_\_\_\_\_~~

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PETITION FOR ESTABLISHMENT OF WATER LEVELS

\_\_\_\_\_  
 Name of Waterbody

\_\_\_\_\_  
 Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

(did not  
court)

1. James G. Clark Timothy Hanks Whitefield Box 23 Whitefield  
 2. Patrick Adams Barbara Adams Whitefield PO Box 23 Whitefield, ME  
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PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
Name of Waterbody Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

✓ 1. *Thurbo E. Crummett* *Thurbo E. Crummett* *Whitefield* *5116g View Ct, Newsm 07840*  
2. \_\_\_\_\_  
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PETITION FOR ESTABLISHMENT OF WATER LEVELS

Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE

PRINTED NAME OF SIGNER

TOWN WHERE PROPERTY IS LOCATED

MAILING ADDRESS

✓ 1. Eleanor J. Colberg Whitefield 146 Whitney Ave, Portland ME 04102

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PETITION FOR ESTABLISHMENT OF WATER LEVELS

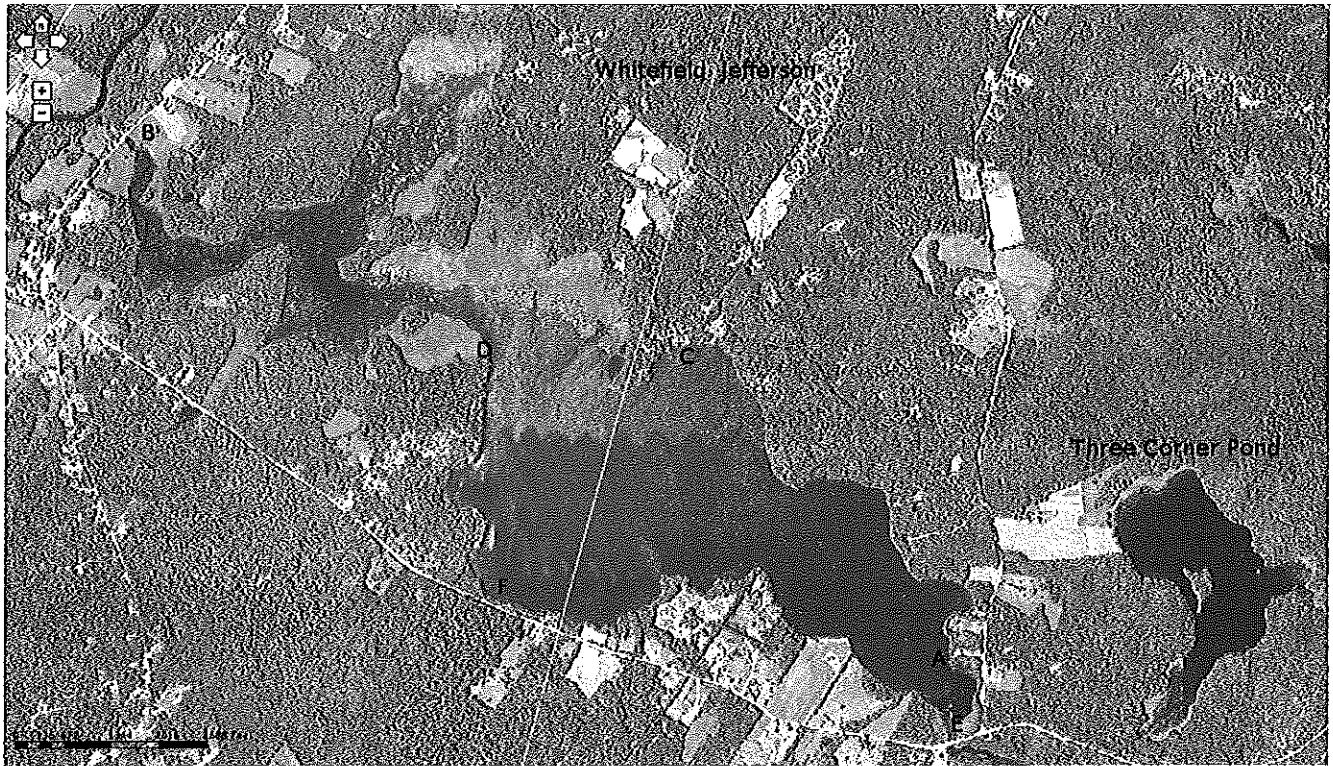
Clary Lake IN Jefferson/Whitefield  
 Name of Waterbody Name of Town(s)

SIGNATURE PRINTED NAME OF SIGNER TOWN WHERE PROPERTY IS LOCATED MAILING ADDRESS

1. Frances A. Moulton FRANCES A. MOULTON WHITEFIELD 318 JEFFERSON RD, WHITEFIELD ME 04353  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
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2012 Clary Lake Water Level Petition

Appendix A



**Aerial Photograph of Clary Lake, Summer 2009**

scale 1:20,000

Photo from the Maine Office of GIS website. The letters correspond to locations of photographs included in this appendix as noted below:

- |                        |  |
|------------------------|--|
| A) State Boat Launch   | C) Beach on north shore off Duncan Road          |
| B) Clary Lake Dam      | D) Mouth of the channel showing drained wetlands |
| E) Inlet to Clary Lake | F) Flooded muskrat house and Canada geese        |

(A)



Photograph by George Fergusson

### **State Boat Launch, Jefferson Maine**

Picture taken 20 November 2011. Located off Route 215 in Jefferson, built by the State of Maine in 2002. The end of the concrete ramp is just barely visible at the edge of the water. From there on it's mud and rocks. At this time the ramp is unusable for anything but carry-in traffic. Those are rocks out in the water, some of the unmarked hazards mentioned in that sign. The water is less than 2' deep out by that far pile of rocks.

(B)



Photograph by George Fergusson

### **Clary Lake Dam**

Picture taken 20 November 2011 showing the upstream side of the dam with the old mill building on the opposite side of Route 218 visible in the background. The water level in this photograph is ~58" below the top of the dam as measured in the center of the dam at the gate. For comparison, the white sliding glass door in the back of the building is 72" wide by 82" high.

(C)



Photograph by George Fergusson

### **Beach on north shore of Clary lake off Duncan Road**

Picture taken 11 December 2011. The owner of this float didn't bother to take it in this fall. The water level in this picture is approximately 48" below the top of the dam, more than a foot higher than it was when the other pictures were taken.



(D)



Photograph by George Fergusson

**The entrance to the channel showing drained wetlands**

Picture taken 20 November 2011 looking northwest showing the outlet of Clary Lake and the beginning of the marsh and the wetlands that have been drained. With normal water levels this time of year, I would have been standing in 3' of water.

(E)



Photograph by George Fergusson

**Inlet of Clary Lake looking north  
towards the State boat launch**

Picture taken 20 November 2011 standing on top of the culvert under Route 126. This is the primary source of water for Clary lake, other than a few springs and a handful of small brooks. The water comes largely from the overflow of Three Corner Pond located ½ a mile to the east and a large wetland located on the southerly side of Route 126. When the level of Clary lake is taken down, it serves to lower the water level in that same wetland.



(F)



Photograph by George Fergusson

### **Flooded muskrat houses**

Picture taken 09 December 2011 showing muskrat houses built earlier this fall when the water was another foot lower. The water level in this photograph is around 48" below the top of the dam and the houses are in the process of being flooded out. The geese in the background would normally be feeding but there's nothing but mud in the shallows now, the normal vegetation they'd be thinning and eating is out of water.

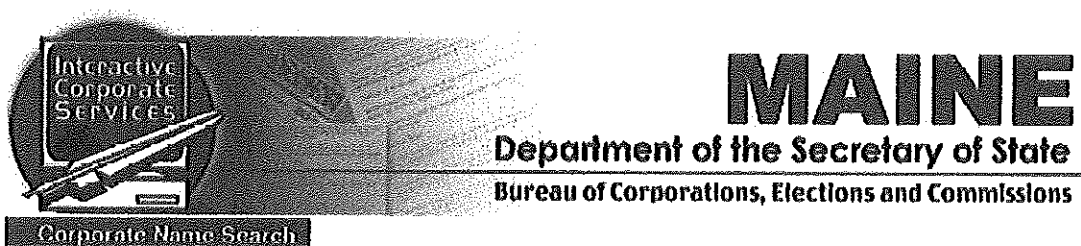


2011/2012  
Clary Lake Water Level Petition

Appendix B

Contents:

1. Corporate information sheets for Pleasant Pond Mill LLC and Aquafortis Associates LLC
2. Deed: Arthur Enos to Pleasant Pond Mill LLC Book 3651 Page 224 dated 27 March 2006
3. Partial Release of Mortgage, Arthur Enos to Pleasant Pond Mill LLC Book 4275 Page 81 dated 19 April 2010
4. Deed Estate of Chester A. Chase to Pleasant Pond Mill LLC Book 3037 Page 315 dated 11 April 2003
5. Deed Pleasant Pond Mill LLC to Aquafortis Associates LLC Book 4275 Page 85 dated 13 April 2010
6. Deed Stephen Chase Smith to Pleasant Pond Mill LLC Book 3771 Page 190 dated 09 November 2006



## Information Summary

Subscriber activity report

This record contains information from the CEC database and is accurate as of: Tue Jan 03 2012 08:15:16. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
PLEASANT POND MILL LLC	20031688DC	LIMITED LIABILITY COMPANY (DOMESTIC)	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
03/07/2003	N/A	MAINE

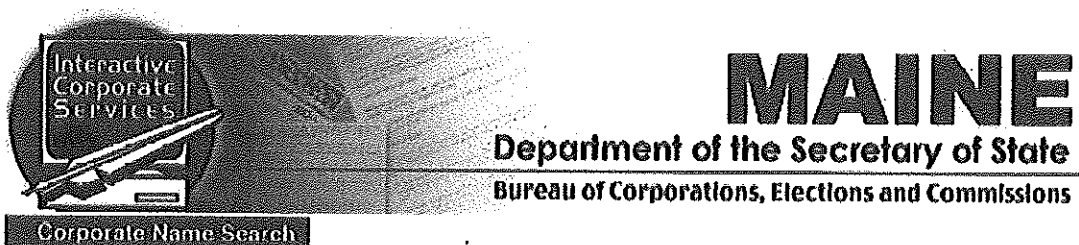
**Other Names** (A=Assumed ; F=Former)

DESIGN & SMITH CREATIVE VENTURES	A
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DESIGN-ME	A
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**Clerk/Registered Agent**

PAUL A. KELLEY, JR.  
171 MOLYNEAUX RD  
CAMDEN, ME 04843



## Information Summary

Subscriber activity report

This record contains information from the CEC database and is accurate as of: Tue Jan 03 2012 08:16:59. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
AQUAFORTIS ASSOCIATES LLC	20102550DC	LIMITED LIABILITY COMPANY (DOMESTIC)	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
03/31/2010	N/A	MAINE

**Other Names** (A=Assumed ; F=Former)

NONE

### Clerk/Registered Agent

PAUL A. KELLEY, JR.  
171 MOLYNEAUX RD  
CAMDEN, ME 04843

## WARRANTY DEED

Arthur W. Enos of Jefferson, Maine for consideration paid, grants to


Pleasant Pond Mill, LLC a limited liability company organized under the laws of the State of Maine and having a place of business at 171 Molyneaux Road, Camden, Maine 04843

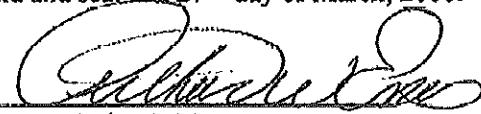
with WARRANTY COVENANTS

a certain lot or parcel of land, together with any buildings and improvements thereon, situated in Whitefield, County of Lincoln, State of Maine, bounded and described as follows:

(SEE EXHIBIT A ATTACHED HERETO)

IN WITNESS WHEREOF, the Grantor has set his hand and seal this 27<sup>th</sup> day of March, 2006.

  
Witness

  
Arthur W. Enos

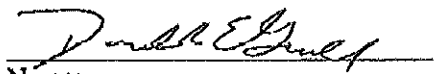
MAINE REAL ESTATE  
TRANSFER TAX PAID

State of Maine  
County of Kennebec, ss.

March 27, 2006

Then personally appeared the above-named Arthur W. Enos and acknowledged the foregoing to be his free act and deed:

Before me,

  
Name:  
Notary Public/Attorney-at-Law  
Commission expires: \_\_\_\_\_

DONALD E. GUILD  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES MAY 5, 2010

Linda Haffad (2)  
P.O. Box 3306  
Augusta, ME 04338

SEAL

**EXHIBIT A**

A certain lot or parcel of land, with the dam thereon, situated on the southeasterly side of Route 218 at North Whitefield, in the Town of Whitefield, County of Lincoln and State of Maine, bounded and described as follows:

Beginning at a point on the assumed right of way of said Route 218, said point being 12 feet, more or less, southerly from the northwesterly corner and 6 feet from the southwesterly side of the Old Mill Building on the herein described premises;

Thence in an overall northeasterly direction along Route 218 crossing the mill pond outlet a distance of 146 feet, more or less, to a point, said point being on a line that is a northwesterly extension of the southwesterly face of the concrete foundation of a pump house on land now or formerly of Chester H. Chase;

Thence South  $26^{\circ} 08' 50''$  East a distance of 39 feet, more or less, along said extension line the last part of this course being along the face of said concrete foundation, to the southwesterly corner of said foundation, said corner being a distance of 79.7 feet from the southeasterly corner of the concrete wingwall of the Route 218 Bridge over said outlet and a distance of 109.8 feet from the southeasterly corner of said Old Mill Building;

Thence South  $58^{\circ} 52' 30''$  West a distance of 142.59 feet crossing the mill pond on the herein described premises to a point on the southeasterly extension of a line that is 6 feet southwesterly from and parallel to the southwesterly side of said Old Mill Building, said point being a distance of 27.8 feet from the southwesterly corner and a distance of 45.7 feet from the southeasterly corner of said Old Mill Building;

Thence North  $31^{\circ} 17' 55''$  West along the last described extension line a distance of 39 feet, more or less, keeping parallel to and 6 feet from the southwesterly side of said Old Mill Building to the point of beginning.

The last 3 courses described herein being along remaining land of Chester H. Chase. Containing 0.13 acre, more or less. Bearings being magnetic, 1994.

Also conveying herewith but excepting any land between the herein described premises and Route 218.

Also conveying herewith all the mill privilege and flowage rights contained in the deeds recorded in Book 478, Page 78 and Book 478, Page 82 and any other mill privileges and flowage rights on Clary Lake however obtained by Chester H. Chase and his predecessors in title.

Excepting the Old Mill Building located on the premises conveyed herein above.

Subject to the personal easement rights to Chester Chase reserved in Book 2056, Page 340.

See Standard Boundary Survey Proposed Conveyance from Chester H. Chase to Arthur Enos, Whitefield, Maine, Date: November 14, 1994- Scale 1" = 30' Survey by: Lemuel L. Brown, P.L.S. #225 R.R. 1, Box 626, Wiscasset, Maine 04578, File No. 1025. Said plan not on record.

Meaning and intending to convey the same premises conveyed in the deed from Chester H. Chase to Arthur W. Enos dated February 3, 1995 and recorded in Book 2056, Page 340 of the Lincoln County Registry of Deeds.

CMT-19918

Lincoln County Registry of Deeds

*Marcia P. Silva*  
Marcia P. Silva, Registrar



**PARTIAL RELEASE OF MORTGAGE**

KNOW ALL BY THESE PRESENTS THAT, Arthur Enos of Burlington State of Massachusetts holder of a certain mortgage given by Pleasant Pond Mill, LLC, dated March 27, 2006, and recorded in the Lincoln County Registry of Deeds in Book 3651, Page 227, does hereby acknowledge that he has received partial payment and satisfaction thereof and the debt thereby secured and in consideration thereof does hereby release from said mortgage unto the said Pleasant Pond Mill, LLC, its successors and assigns forever, the portion of the mortgaged premises, and only such portion, described below:

All the mill privilege and flowage rights contained in the deeds recorded in Lincoln County Registry of Deeds in Book 478, Page 78 and Book 478, Page 82 and any other mill privileges and flowage rights on Clary Lake however obtained by Chester H. Chase and his predecessors in title.

IN WITNESS THEREOF, the said Arthur Enos has caused this instrument to be executed this 19 day of April, 2010.

Jacob Brown  
Witness

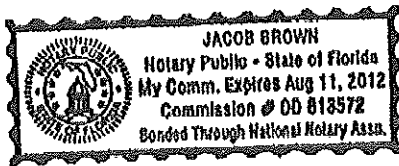
Arthur Enos  
Arthur Enos

State of Florida  
County of Orange, ss.

April 19, 2010

Then personally appeared the above-named Arthur Enos and acknowledged the foregoing to be his free act and deed.

Before me,



Jacob Brown  
Name: Jacob Brown  
Notary Public/Attorney-at-Law  
Commission expires: 08/11/2012

Received  
LINCOLN COUNTY REGISTRY OF DEEDS  
REBECCA S. WOTTON  
REGISTER

## DEED OF SALE BY PERSONAL REPRESENTATIVE

**Elizabeth Chase Harmon**, of Whitefield, County of Lincoln, State of Maine duly appointed and acting personal representative of the Estate of **Chester A. Chase**, deceased, as shown by the probate records of Lincoln County, Maine, Docket 01-227 and having given notice to each person succeeding to an interest in the real property described below at least ten (10) days prior to sale, or such notice having been waived by the power conferred by law, and every other power, for consideration paid, grants to

**Pleasant Pond Mill, LLC**, a Maine limited liability company with a primary address of 171 Molyneaux Road, Camden, Maine,

a certain lot or parcel of land, together with any buildings thereon, situated in **Whitefield**, County of **Lincoln**, State of **Maine**, bounded and described as follows:

(SEE EXHIBIT A ATTACHED HERETO)

IN WITNESS WHEREOF, the Personal Representative has set her hand and seal this 11th day of April, 2003.

MAINE REAL ESTATE  
TRANSFER TAX PAID

*Donald E. Guild*  
Witness

*Elizabeth Chase Harmon*  
**Elizabeth Chase Harmon**  
Personal Representative of the  
Estate of **Chester H. Chase**

State of Maine  
County of Kennebec, ss.

April 11, 2003

Then personally appeared the above-named **Elizabeth Chase Harmon** in her said capacity and acknowledged the foregoing to be her free act and deed.

Before me,

✓ *Linda Dufford*  
P.O. Box 2306  
Augusta, Me. 04338

*Donald E. Guild*  
Name: **Donald E. Guild**  
Notary Public/Attorney-at-Law  
Commission expires: \_\_\_\_\_

**DONALD E. GUILD**  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES MAY 6, 2003



Closing date: April 11, 2003  
Borrower(s): Pleasant Pond Mill, LLC  
Property Address: 104 Mills Road, Whitefield, Maine 04353

A certain lot or parcel of land with the buildings thereon, situated in Whitefield, County of Lincoln and State of Maine, bounded and described as follows, to wit:

The Henry W. Clary Mill lot and privilege lying on both sides of the highway leading from North Whitefield to Coopers Mills, together with the mill and other buildings thereon except the Ben Lambert camp, and bounded as follows, to wit: On the west by Sheepscot River and land formerly of Thomas Keegan; on the south by land now or formerly of J. E. Odiorne and land formerly of Charles A. Bruce; on the east by the Meadow Brook, so-called, or Pleasant Pond Brook; and on the north by land now or formerly of Della M. Morse and Harry S. and Nina I. Colby, and land now or formerly owned or occupied by the Wiscasset, Waterville and Farmington Railway Company; excepting however, from this conveyance such part of the above described premises as is owned by said Wiscasset, Waterville and Farmington Railway Company and any right of way heretofore acquired by said Railway Company through said premises; and subject to the exception contained in the deed from Thomas Keegan to Henry F. Clary relative to the Benjamin King or Oakman lot, which deed is recorded in Lincoln County Registry of Deeds, Book 308, Page 432; and also excepting the building owned and occupied as a camp by Ben Lambert which building the said Lambert or his assigns may remove from said premises at any time.

Excepting and reserving out conveyances as described in the following Books and Pages of the Lincoln County Registry of Deeds: Book 2056, Page 340; Book 2121, Page 126; Book 2401, Page 328 and Book 2616, Page 3.

Subject to order in Quiet-Title Action in the matter of Chester H. Chase vs. Albert R. Boynton, et als. filed in the Lincoln County Superior Court as Docket No. 75-97.

This conveyance is subject to the restriction that no unregistered vehicles shall be stored outdoors on the property.

Meaning and intending hereby to convey a portion of the premises conveyed to Chester H. Chase by deeds recorded in Book 478, Page 78 and Book 478, Page 82 of the Lincoln County Registry of Deeds. Reference is also made to Amended Certificate and Abstract of the Estate of Chester H. Chase recorded in Book 2815, Page 303 of said Registry of Deeds.

CMF 15844

Lincoln County Registry of Deeds

*Marcia P. Silva*  
Marcia P. Silva, Registrar

C03-13468

## QUITCLAIM DEED WITH COVENANT

Pleasant Pond Mill, LLC, a limited liability company organized under the laws of the State of Maine, and having a place of business in Camden, County of Knox, State of Maine for consideration paid, grants to

Aquaforis Associates, LLC, a limited liability company organized under the laws of the State of Maine, having a place of business in Camden, County of Knox, State of Maine, whose mailing address is 171 Molyneaux Road, Camden, Maine 04843,

with QUITCLAIM COVENANTS


two certain lots or parcels of land, together with any buildings and improvements thereon, situated in Whitefield, County of Lincoln, State of Maine, bounded and described as follows:


(SEE EXHIBIT A ATTACHED HERETO)

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed by its duly authorized officer this 13<sup>th</sup> day of April, 2010.

NO TRANSFER TAX  
NECESSARY

PLEASANT POND MILL, LLC

By:   
Paul A. Kelley, Jr.  
Its Manager

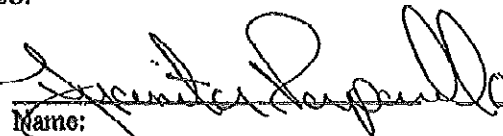
  
Witness

State of Maine  
County of Knox, ss.

April 13, 2010

Then personally appeared the above-named Paul A. Kelley, Jr., Manager of Pleasant Pond Mill, LLC and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of said Pleasant Pond Mill, LLC.

Before me,

  
Name: \_\_\_\_\_  
Notary Public/Attorney-at-Law  
Commission expires: \_\_\_\_\_

JUANITA PAPARELLO  
Notary Public • State of Maine  
My Commission Expires October 1, 2011

EXHIBIT A

Two certain lots or parcels of land, together with any buildings and improvements thereon, situated in Whitefield, County of Lincoln, State of Maine, bounded and described as follows:

Parcel One: A certain lot or parcel of land with the buildings thereon, situated in said Whitefield, bounded and described as follows:

The Henry W. Clary Mill lot and privilege lying on both sides of the highway leading from North Whitefield to Coopers Mills, together with the mill and other buildings thereon except the Ben Lambert camp, and bounded as follows, to wit:

On the west by the Sheepscot River and land formerly of Thomas Keegan; on the south by land now or formerly of J.E. Odiome and land formerly of Charles A. Bruce; on the east by the Meadow Brook, so-called, or Pleasant Pond Brook; and on the north by land now or formerly of Delia M. Morse and Harry S. and Nina I. Colby, and land now or formerly owned and occupied by the Wiscasset, Waterville and Farmington Railway Company; excepting however, from this conveyance such part of the above-described premises as is owned by said Wiscasset, Waterville and Farmington Railway Company and any right of way heretofore acquired by said Railway Company through said premises; and subject to the exception contained in the deed from Thomas Keegan to Henry F. Clary relative to the Benjamin King or Oakman lot, which deed is recorded in Lincoln County Registry of Deeds, Book 308, Page 432; and also excepting the building owned and occupied as a camp by Ben Lambert which building the said Lambert or his assigns may remove from said premises at any time.

Excepting and reserving out-conveyances as described in the following documents recorded in Lincoln County Registry of Deeds: Book 2056, Page 340, Book 2121, Page 126, Book 2401, Page 32, and Book 2616, Page 3.

Also hereby conveying all the mill privilege and flowage rights contained in the deeds recorded in Lincoln County Registry of Deeds in Book 478, Page 78 and Book 478, Page 82 and any other mill privileges and flowage rights on Clary Lake however obtained by Chester H. Chase and his predecessors in title.

Subject to order in Quiet Title Action in the matter of Chester H. Chase vs. Albert R. Boynton, et als., filed in the Lincoln County Superior Court as Docket No. 75-97.

This conveyance is subject to the restriction that no unregistered vehicles shall be stored outdoors on the property.

Parcel Two: A certain lot or parcel of land situated in said Whitefield, bounded and described as follows:

Commencing at an iron stake to be placed at a point 70 feet northeasterly from a line designated "Northerly limits of Bk. 352 Pg. 521, (1918)" and further described as Westerly 298" (Scaled 284') on survey entitled "Survey of Disputed Land in Chester Chase, Plaintiff v. Albert Boynton,

et al., Defendants, Superior Court Civil Action Docket No. CV75-97, lands are located in Whitefield, Lincoln County, Maine, Coffin Engineering, Drawn by C. Gaither, Sheet 2 of 2, April 6, 1981";

Thence southeasterly parallel with and maintaining a distance of 70 feet from said line referred to above to the western right of way line of the Wiscasset, Waterville and Farmington Railway;

Thence southeasterly along said extended line to the westerly boundary of the land of Chase, being the thread of the Pleasant Pond Brook, as described in the second parcel of land in deed recorded in Book 341, Page 36 (1913) Lincoln County Registry of Deeds;

Thence northeasterly along the thread of the Pleasant Pond Brook to the southern boundary of the lands of Arthur Enos as described in a Mortgage deed between Arthur Enos and Chester Chase, dated May 4, 1995 and recorded in Lincoln County Registry of Deeds in Book 2056, Page 342;

Thence southwesterly to a point on the southeasterly extension of a line that is 6 feet southwesterly from and parallel to the southwesterly side of the Old Mill House;

Thence North  $31^{\circ} 17' 55''$  West along the last described extension line a distance of 39 feet, more or less, to a point on a line on the assumed right of way of said Route 218, otherwise known as the Mills Road;

Thence southwesterly along the assumed right of way to the point of beginning.

Meaning to convey all land between the thread of the Pleasant Pond Brook and the borders of the lands of Arthur Enos and Alden Boynton and the assumed right of way to the Mills Road.

Meaning and intending to convey a portion of the premises described in the deed from Richard L. Smith to Pleasant Pond Mill, LLC of near or even date herewith to be recorded herewith in the Lincoln County Registry of Deeds and the mill privilege and flowage rights from the deed to Pleasant Pond Mill, LLC from Arthur Enos recorded in said Registry in Book 3651, Page 224..

Received  
LINCOLN COUNTY REGISTRY OF DEEDS  
REBECCA S. NOTTON  
REGISTER

## WARRANTY DEED

Stephen Chase Smith of Bangor, Maine for consideration paid, grants to

Pleasant Pond Mill, LLC, a Maine limited liability company, organized under the laws of the State of Maine, with a place of business located at 171 Molyneaux Road, Camden, Maine 04843

with WARRANTY COVENANTS


a certain lot or parcel of land, together with any buildings and improvements thereon, situated in Whitefield, County of Lincoln, State of Maine, bounded and described as follows:

(SEE EXHIBIT A ATTACHED HERETO)

IN WITNESS WHEREOF, the Grantor has set his hand and seal this 9<sup>th</sup> day of November, 2006.

  
Witness

MAINE REAL ESTATE  
TRANSFER TAX PAID

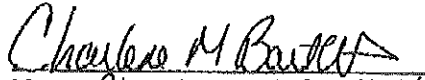
  
Stephen Chase Smith  
By Stephen Carlisle Smith, Attorney-in-Fact  
pursuant to Power of Attorney to be  
recorded herewith

State of Maine  
County of Lincoln, ss.

November 9, 2006

Then personally appeared the above-named Stephen Carlisle Smith and acknowledged the foregoing to be his free act and deed in his said capacity.

Before me,

  
Name: Charlene M. Bartlett  
Notary Public/Attorney-at-Law  
Commission expires: 2-11-09

CHARLENE M. BARTLETT  
Notary Public, Maine  
My Commission Expires February 11, 2009

SEAL

Gif

EXHIBIT A

A certain lot or parcel of land situated in the Town of Whitefield, County of Kennebec and State of Maine, bounded and described as follows:

Commencing at an iron stake to be placed at a point 70 feet northeasterly from a line designated "Northerly limits of Bk. 352 Pg. 521, (1918)" and further described as "Westerly 298" (Scaled 284) on survey entitled: "Survey of Disputed Land in Chester Chase, Plaintiff v. Albert Boynton, et al., Defendants, Superior Court Civil Action Docket No. CV 75-97, lands are located in Whitefield, Lincoln County, Maine, Coffin Engineering. Drawn by C. Gaither, Sheet 2 of 2, April 6, 1981";

Thence southeasterly parallel with and maintaining a distance of 70 feet from said line referred to above to the western right of way line of the Wiscasset, Waterville and Farmington Railway;

Thence southeasterly along said extended line to the westerly boundary of the land of Chase, being the thread of the Pleasant Pond Brook, as described in the second parcel of land in deed recorded in Book 341, Page 36 (1913), Lincoln County Registry of Deeds;

Thence northeasterly along the thread of the Pleasant Pond Brook to the southern boundary of the lands of Arthur Enos, as described in a Mortgage deed between Arthur Enos and Chester Chase, dated May 4, 1995 and recorded in Book 2056, Page 342 of the Lincoln County Registry of Deeds;

Thence southwesterly to a point on the southeasterly extension of a line that is 6 feet southwesterly from and parallel to the southwesterly side of the Old Mill House;

Thence North 31° 17' 55" West along the last described extension line a distance of 39 feet, more or less, to a point on a line on the assumed right of way of said Route 218, otherwise known as the Mills Road;

Thence southwesterly along the assumed right of way to the point of beginning.

Meaning to convey all land between the thread of the Pleasant Pond Brook and the Borders of the Lands of Arthur Enos and Alden Boynton and the assumed right of way to the Mills Road.

Meaning and intending to convey the same premises conveyed in the deed from Chester Chase to Stephen Chase Smith dated September 4, 2000 and recorded in Book 2616, Page 3 of the Lincoln County Registry of Deeds. The Old Mill House described in said deed previously conveyed from grantor to grantee by Bill of Sale dated March 28, 2006.

Lincoln County Registry of Deeds

*Marcia P. Silva*  
Marcia P. Silva, Registrar



## 2012 Clary Lake Water Level Petition Supporting Documentation

**1) Describe the nature of the problems you wish to have resolved through the setting of water levels and/or minimum flows by the DEP. Try to quantify the extent of these problems.**

Maintaining satisfactory water levels on Clary Lake has been an ongoing problem for many years. While under the management of Pleasant Pond Mill LLC, water levels have fluctuated, sometimes considerably, especially during the spring and summer months of peak recreational usage. The impact of occasional high water levels have also been noted, especially in the spring when ice, wind, and high water have caused shoreline erosion in some areas. Fluctuating water levels especially in the spring and early summer have impacted loon nesting areas and fish spawning beds and during the winter, excessive flows in the channel area have created hazardous conditions for snowmobiles with areas of thin ice and/or open water.

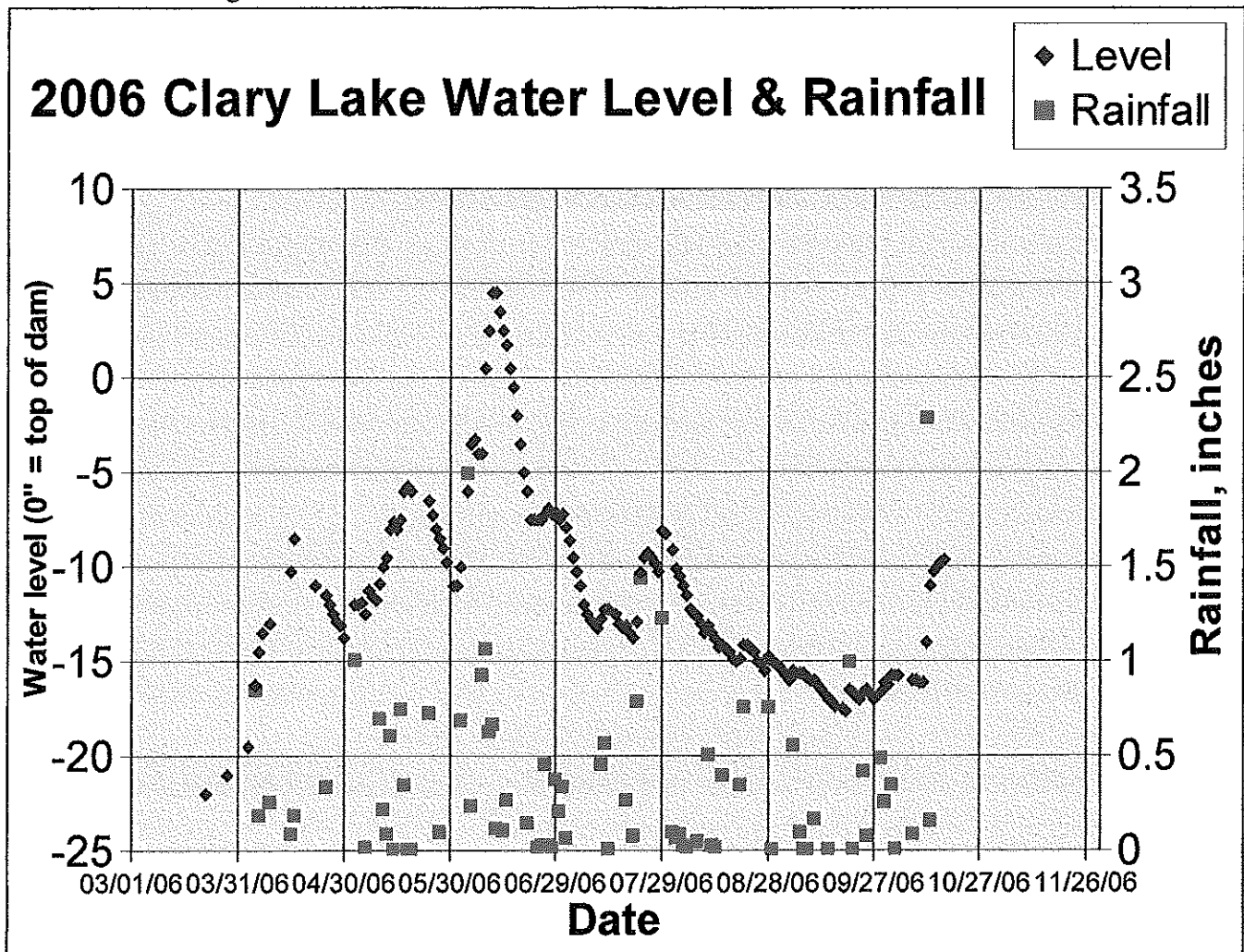
Some variation of water levels is to be expected and to their credit, Pleasant Pond Mill LLC has in the past been generally, but not always, responsive to Lake shore owners concerns. However, last winter and again this past fall the Lake has been deliberately drawn down to levels nobody around here has seen in over 50 years. I am aware of several Lake shore owners who have contacted Pleasant Pond Mill LLC this past fall and expressed their concerns about the alarmingly low water **which at its lowest level in mid-November was over 5' below the top of the dam.** To date, the gate remains open though the water level has rebounded some due to fall rains. The only reason it did not drop further this past fall is because at a certain point there was enough water flowing in from small streams and neighboring Three Corner Pond to replace what was flowing out. In a drier time of year without these inflows to balance the outflow, the Lake level could and certainly would fall even further. Last winter the draw down occurred mostly after freeze up and ice and snow obscured the shoreline. As a result the low water levels and environmental impact were not so apparent though numerous Lake shore owners have reported contacting Pleasant Pond Mill LLC last winter about the low water level.

This past year (2011) I believe the gate was open all winter and into the spring. On 29 April 2011 Pleasant Pond Mill LLC finally closed the gate in response to an inquiry by a Lake shore owner concerned over the effect of low water levels on fish spawning. They noted in an email that the water level at that time was 20.5" below the top of the dam. A few weeks later the gate was open again and the water level continued to drop and a Lake shore owner's appeal went unanswered; it turned out to be a dry summer and satisfactory water levels have never returned. At last check (27 December 2011) the water level at the dam was 51" below the top of the dam and falling, as the gate is still open.

Water level management of this sort shows a clear disregard for the fragile ecology and valuable scenic character of Clary Lake as well as having an impact on property values and the economic contribution to the towns of Whitefield and Jefferson from recreational boaters, fishermen, and hunters. Low water levels have rendered the recently installed State of Maine public boat launch unusable for anything but carry-in traffic since early October. I had trouble getting my 14' aluminum boat out of the Lake on Columbus Day due to low water and rock hazards. Many people who get utility water from the Lake have discovered their foot valves exposed this fall and a number of people didn't bother to haul in their docks and floats this year as they were already high and dry. However, all these inconveniences pale in comparison to the impact the draw down has had on Clary Lake's extensive marshes, meadow lands and shallow water areas which are so important for the health and vitality of the Lake. These areas should be teeming with plants and wildlife but are instead dry and lifeless.

The first thing that jumps out is the large annual range between high and low water levels, historically averaging over 36" from high to low. This is anything but a stable water level! Another interesting observation is how fast and how high the Lake water level can rise above the top of the dam, and how quickly it can drop. The excessive draw down in the summer of 2005 which prompted the circulation of the Lake level petition mentioned above is also clearly evident when the Lake level dropped to 31.5" below the top of the dam on 22 August 2005. Even given the large historical variation between highs and lows, it is little wonder that recent excessive draw downs by Pleasant Pond Mill LLC well in excess of 60" below the top of the dam have elicited such alarm on the part of Clary Lake shore owners.

The following chart shows water level and rain fall records for the year 2006, the first full year of dam operation by Pleasant Pond Mill LLC. As annual fluctuations go, it was about average with a range of about 27" from high to low:



It is interesting to note the clear correlation between rain events and the corresponding rapid rise in the Lake level.

**5) Describe your proposal for a water level regime and/or minimum flows that will resolve the problems you have identified.**

I feel it is impossible to discuss a realistic water level regime for Clary Lake without also discussing the

I think generally over the years most Lake shore owners have been patient and understanding and willing to put up with somewhat variable water levels. I know I have been. However while the fluctuations in recent years may have taxed our patience, this fall's excessive and drastic draw down has gone too far. Granted the dam's design and condition make managing Clary Lake water levels difficult; however there is no evidence that Pleasant Pond Mill LLC is interested in remedying this situation with simple repairs and easy modifications. Pleasant Pond Mill LLC has made it clear there are no repairs to be made to the dam outside of the context of a whole-site historical restoration which includes the mill pond and building located downstream of the dam. This historical restoration appears not to be immediately forthcoming so we are left with no option at this time but to petition the Department of Environmental Protection as provided for by State law to establish an acceptable and stable Lake level. We do not pursue this option lightly.

**2) Provide a map of the water body in question with locations of impacts marked and types of impacts (erosion, flooding, exposed dock, etc.) labeled.**

See Appendix A

**3) Describe any attempts that have been made by you or others to resolve your problems with the dam owner or operator.**

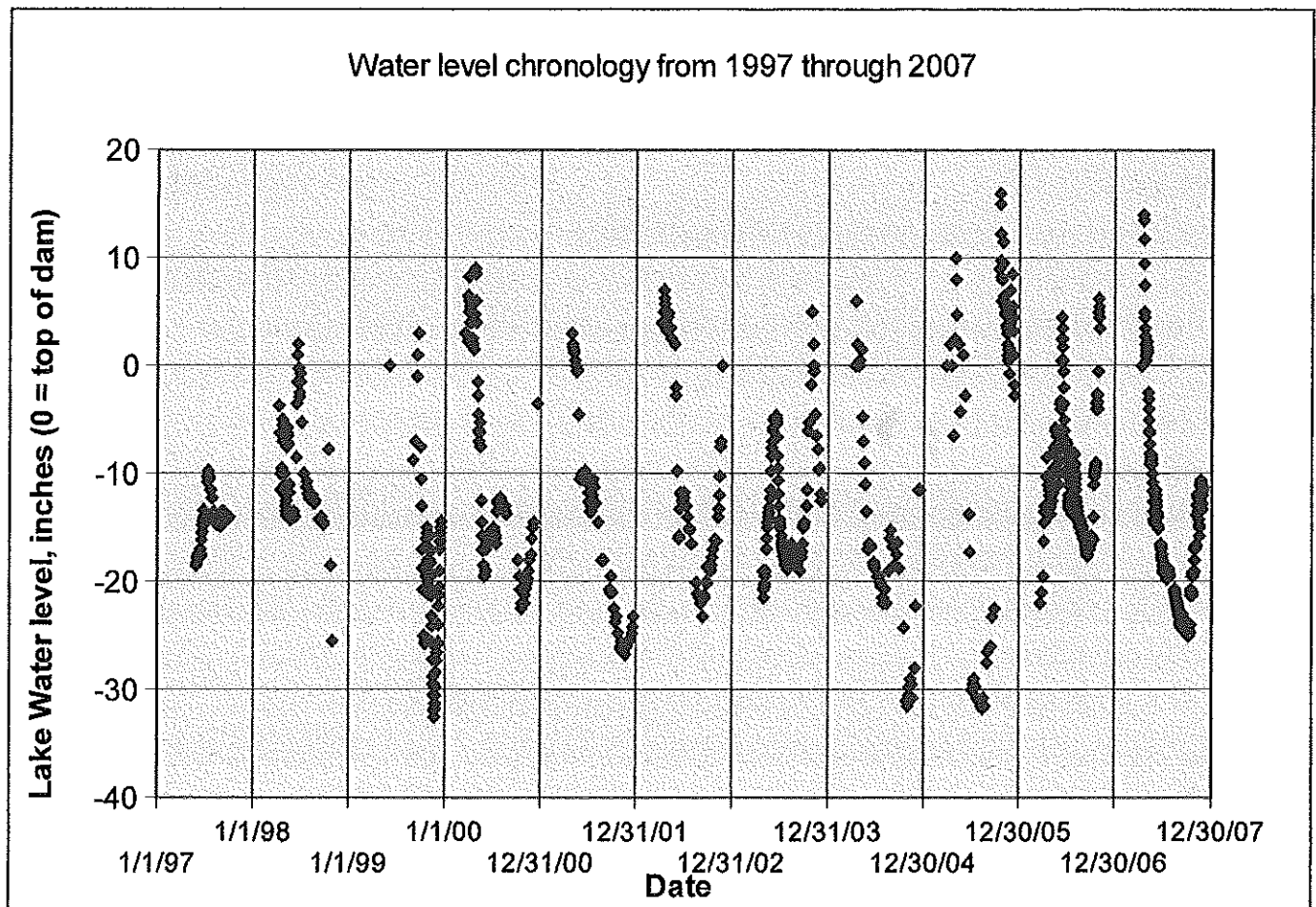
I was elected president of the Clary Lake Association (CLA) in August 2007 and I immediately offered the Association's help and resources to repair the dam which was- and still is- leaking considerably, and to assist in the construction of a spillway on top of the dam based on an engineered design obtained by a former owner of the dam. The sluice design was provided in 1994 by the Pittsfield, Maine engineering firm of Kleinschmidt Associates. Our offer of help was rejected on the basis that what we wanted to do was not historically accurate. About this same time Pleasant Pond Mill LLC offered to give the dam to the Association and to that end, at a special membership meeting on 17 November 2007, the CLA Board obtained authorization from the Association membership to proceed with steps to accept ownership of the dam. Unfortunately, we were not able to arrive at a mutually acceptable arrangement; Pleasant Pond Mill LLC indeed appeared willing to part with the dam but with so many conditions and strings attached we felt it would not be in our best interests to proceed. I subsequently found a benefactor who was (and may still be) willing to purchase the dam and donate it to the Association. Ultimately that initiative as well went nowhere and it became clear to me that as long as Pleasant Pond Mill LLC owned the old mill building down stream from the dam that they were not going to relinquish ownership and/or control of the dam in any meaningful way. The way they explained to me at the time was that they believed their down stream property was at risk from dam failure. I believe this remains their stance today.

**4) Provide any historical information (for example, records of water levels) you believe will be useful in the DEP's evaluation of the cause, duration, and extent of your problem.**

This is not the first Lake level petition that has been circulated around Clary Lake. There have been three others over the years that I am aware of, all of which were ultimately called off because the petitioners arrived at what they thought was a long-term accord with the dam owner regarding an acceptable water level maintenance regime. Each time, eventually, and no doubt despite good intentions on all sides, water levels again became an issue. This situation has been exacerbated by the deteriorating condition of the dam which has made it harder and harder over time to impound water without significant losses due to leaks.

The last petition was circulated during the summer of 2005 when excessively low water levels prompted a concerned Lake shore owner to take action. That petition was submitted to the DEP in early August 2005 by which time the then dam owner, Art Enos, had conveyed (or was in the process of conveying) the dam to Pleasant Pond Mill LLC. The following spring the petition was put on hold by the DEP pending review of a power generation license application that had been filed by Pleasant Pond Mill LLC. Later that summer, Paul Kelley and Richard Smith of Pleasant Pond Mill LLC attended the annual meeting of the Clary Lake Association held in early August. At that meeting, a proposal was made by an Association member for the Lake level to be maintained at 12" below the top of the dam with a range of no more than  $\pm 3"$ . A motion was made to adopt that recommendation and the motion passed. Statements made by Mr. Kelley at that meeting and again subsequently at an Association Board meeting that they attended later that fall indicate they acknowledged the Association position on this matter and intended to the best of their ability to keep the water level within the agreed upon range. Based on these reassurances, the Association dropped the petition. Those good intentions did not last very long. More recent statements by Mr. Kelley including one made in an email to a Lake shore owner on 29 April 2010 indicated that he believed that that agreement had "lapsed" and certainly, their actions and the resulting water level fluctuations in recent years would suggest as much.

David Hodsdon has been actively engaged in water quality monitoring on Clary Lake since 1975 making it possibly one of the longest and most closely monitored Lakes in the state of Maine. Starting in 1997 he also started recording water level measurements relative to the top of the dam and for a few of those years he also recorded rain fall amounts. The following chart based on his data shows water level chronology from 1997 through 2007:



work needed to repair the leaks and other structural problems with the dam as well as the construction of a sluice or spillway on top of the dam that would provide for convenient, unattended, self-regulating water level maintenance; the sluice would be sized to maintain the desired water level given the average runoff volumes expected throughout the year based on historical rain and snowfall records. However, Pleasant Pond Mill LLC has to date rejected such modifications out of hand. As long as Pleasant Pond Mill LLC has owned the dam, they have not made any repairs to it at all.

Therefore we respectfully request that Pleasant Pond Mill LLC simply reaffirm their commitment to maintain the water level 12" below the top of the dam  $\pm$  3" as voted on by the Clary Lake Association and agreed to by Pleasant Pond Mill LLC back in 2006. This will provide for a variable water level of between 9" and 15" below the top of the dam. Clearly, leaks and other structural deficiencies will have to be repaired or else the lower water level won't be maintained during the summer months. It is understood that water levels will occasionally rise above the 9" mark and from time to time even over-top the dam, for short periods. Furthermore, Pleasant Pond Mill LLC will refrain from the drastic draw downs that have come to characterize their water level management regimen each fall.

#### Further Considerations:

First, it should be obvious now that the dam as currently set up is not really suitable for maintaining a stable water level, it is designed to allow for the maximum amount of draw down of the Lake as the gate is located at the bottom of the dam. Therefore targeting a specific water level at the Lake will not be easy. Historically, when the dam is full with the gate fully open the water level of the Lake will drop approximately 1" per day, perhaps a little more now with the increased leakage. As the water level drops the head decreases and increasing friction in the channel slows the flow of water and the water level of the Lake drops more slowly. At a certain point, the system reaches equilibrium as it did late this fall where the water flowing into the Lake equals the volume of water flowing out through the dam. At this point, the Lake level stops dropping.

On the other hand, with a 9 square mile water shed, 1" of rain can cause the Lake to rise 4" or more almost overnight while leakage in the absence of rain can amount to a drop of 6"-8" a month. Evaporation during the summer months will also contribute to the water level dropping. As a result, sometimes wild fluctuations in water level can result despite the dam operators best intentions.

Second, water levels are currently managed by manually opening a gate in the bottom of the dam to allow impounded water to flow downstream. When enough water has been drawn off, the gate is manually closed. Figuring out when enough water has been drawn off is the trick, a trick further complicated by the fact that whenever there is water either being released or flowing over the dam there is a gradient or slope to the water surface resulting from friction as water flows from the Lake along a 1.5 mile long channel to the dam. Friction also results from the flow of water through the shallow water marsh areas which in effect acts as a sponge. This may seem counter intuitive but if there is no gradient, then there is no flow. In other words, when the Lake is being drawn down, the elevation of the water at the dam is going to be lower, perhaps significantly so, than the elevation of the water on the Lake. **This fall the elevation difference at the lake has been approximately +0.2'**

An examination of water level records for Clary Lake suggests that during periods of high runoff or during a significant draw down such as has occurred this fall, this difference in elevation can amount to as much as 16" or more. Only when the dam is closed and the water level has had a chance to equalize is the water level at the dam and the water level of the Lake going to be at the same elevation.

Third, the top of the dam itself is neither flat nor level and it is possibly 6" to 8" lower in the middle than it is at the ends and apparently is lower at one end than it is at the other. This raises the question of where on the dam should measurements be made, and how should they be made?

For these reasons I further request:

1. That the water level for Clary Lake established by the lake level order be defined as an actual NAVD88 elevation and that suitable permanent elevation benchmarks be established by survey in the vicinity of the dam and at several locations around the Lake so that independent measurements of actual lake water levels can be made to verify compliance with the order;
2. That the actual location on the dam where measurements are to be made and the method of making those measurements be clearly defined so that all measurements referred to the top of the dam will be consistent and can be converted to actual elevations;
3. That Pleasant Pond Mill LLC only make measurements of water levels at the dam when the dam has been closed long enough for the water level to reach equilibrium (statements about Lake water levels based on observations of water levels at the dam while it is open and drawing down are meaningless). Otherwise, water levels need to be measured at the Lake.

I have already established several local benchmarks meeting the above requirements utilizing conventional differential GPS surveying techniques and am prepared to perform additional surveying work as required.

I further realize that it would be challenging for Pleasant Pond Mill LLC to maintain a stable water level under the best of conditions given the way the dam is set up, but given the condition of the dam today, it will be virtually impossible. Clearly some emergency repairs will need to be done, and done soon and I remain committed and willing to assist in any way I can and I know there are others that feel the same way.

Throughout this document I have referred to Pleasant Pond Mill LLC as the owner of the dam. While this is technically true, the real situation is a bit more complicated, to wit:

On 13 April 2010 Pleasant Pond Mill LLC transferred property that they had received from the Chase heirs in 2003 (see Book 3037 Page 315) to another limited liability company, **Aquafortis Associates LLC** by deed recorded in Book 4275 Page 85. In addition to the old mill building and land on the westerly side of Route 218, this deed also specifically includes the **mill privilege and flowage rights** that Pleasant Pond Mill LLC received from Art Enos in 2006 when they bought the dam from him (see Book 3651 Page 224).

The above conveyance to Aquafortis Associates LLC leaves Pleasant Pond Mill LLC owning the dam and associated property received from Stephen Chase Smith (see Book 3771 Page 190) but without the mill privilege and flowage rights long associated with the dam on Clary Lake. The dam is still subject to a mortgage held by Art Enos; reference may be had to a partial release of mortgage from Art Enos covering the mill privilege and flowage rights dated 19 April 2010 and recorded in Book 4275 Page 81.


The clerk and registered agent of both **Pleasant Pond Mill LLC** and **Aquafortis Associates LLC** is the same person, Mr. Paul A. Kelley Jr.

By separating the ownership of the dam from the right to operate the dam (i.e., to raise and lower the water) and vesting those interests in two separate corporations, an unusual and rather untenable situation has been created where the entity that has the rights to raise and lower the water level does not actually own the means to do so while the entity that can raise and lower the water level in fact lacks the rights to do so. Was this situation created intentionally? Who knows. Whether intentional or not, these actions by Mr. Kelley have served to obfuscate and confuse the situation thereby complicating the process of sorting out the legal status of the dam and figuring out who is in charge of its operation and maintenance, and who should be held responsible for it. That said, I trust this situation will not prove to be an obstacle in the way of the Department's processing of this lake level petition.

All deed references refer to documents recorded at the Lincoln County Registry of Deeds; information pertaining to the incorporation of Pleasant Pond Mill LLC and Aquafortis Associates LLC and copies of the above referenced deeds are included in Appendix B.

Finally, in the interest of full disclosure I should point out that I am no longer president of the Clary Lake Association but I remain a Board member. However, I am submitting this petition as a concerned Lake shore owner on behalf of other concerned Lake shore owners some of whom have signed this petition and I am not representing the Clary Lake Association.

Respectfully Submitted,



dated:

3 Jan 2012

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